IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

FRANCIS X. DELUCA, Plaintiff, v. NORTH CAROLINA STATE BOARD OF ELECTIONS; KIM WESTBROOK STRACH, in her official capacity as Executive Director of the State Board; and A. GRANT WHITNEY, RHONDA K. AMOROSO, JOSHUA D. MALCOLM, JAMES BAKER, and MAJA KRICKER, in their official capacities as members of the State Board of Elections, Defendants.	No. 5:16-cv-913

MOTION TO EXPEDITE CONSIDERATION OF PROPOSED DEFENDANT-INTERVENORS' MOTION TO INTERVENE

Pursuant to Federal Rule of Civil Procedure 7(b) and Local Rule 7.1(b), Proposed Defendant-Intervenors respectfully move this Court to expedite consideration of Proposed Defendant-Intervenors' Motion to Intervene. It is critical that Proposed Defendant-Intervenors be allowed intervention before this Court considers Plaintiffs' Motion for a Preliminary Injunction.

As background, North Carolina's deadline to register to vote on Election Day in the 2016 general election was October 14, 2016. The State additionally offered a 17-day early voting period from October 20, 2016 through November 5, 2016, during which voters who were not registered at their current address could present in person at any early voting site in their county of residence, complete a voter registration form, provide an acceptable form of identification containing their name and current address under federal law, and cast an in-person absentee ballot during the same trip. This process is known as same-day registration during one-stop early voting.

Following a voter's use of same-day registration, within two business days the county board of elections initiates a process to verify and complete the voter's registration by sending up to two nonforwardable mailings to the address listed on the voter's registration form. 2007 N.C. Sess. Laws 253, § 1. The voter is not required to take action to respond to these mailings, but if both are returned by the U.S. Postal Service as undeliverable, the county sends a final verification mailing to the same address by forwardable mail, to which the voter is required to respond. §§ 163-82.7(g)(1), (3); § 163-82.14(d)(2). If the voter does not respond to the forwardable notice, the voter's registration form is rejected. *Id.*

Same-day registration for the November 2016 general election ended November 5, 2016. After the general election on November 8, 2016, county boards of election began the process of reviewing provisional and absentee ballots cast in the general election, including absentee ballots submitted by same-day registrants, and certifying county election returns. County boards of election are currently working to complete that process, after which Defendant State Board of Elections must review the counties' submissions and certify election results statewide. These election results must be certified for Electoral College purposes by December 13, 2016. *See* U.S. Electoral College: 2016 Presidential Election, National Archives, https://www.archives.gov /federal-register/electoral-college/key-dates.html (last visited Nov. 23, 2016).

Plaintiff filed this action November 21, 2016, complaining of North Carolina's same-day voter registration and mail verification processes under the Fourteenth Amendment to the U.S. Constitution and National Voter Registration Act of 1993, and now seeks a preliminary injunction from this Court to delay counting or reject ballots cast by voters who used same-day registration in 2016 based on a returned mailing. Dkt. 1, 9. Plaintiffs' requested relief would effectively halt certification of all election results in North Carolina until county boards of election have sent verification mailings to all voters who used same-day registration and waited fifteen days to determine whether those mailings will be returned as undeliverable, and then for any voters whose mailings are returned, until the same county boards send a second mailing and wait an additional fifteen days to determine whether the second mailing is returned. *See* Compl. 9, 10.

Because certification of election returns at the county level is nearly complete, and certification at the state level is immediately pending, and Plaintiff has just filed a Motion for Preliminary Injunction, it is critical that consideration of Proposed Defendant-Intervenors' Motion to Intervene be expedited so that Proposed Defendant-Intervenors may brief on the Preliminary Injunction Motion, protect their legally-cognizable interests in this matter, and explain to the Court why that Preliminary Injunction Motion should be denied.

Respectfully submitted this 23rd day of November, 2016.

/s/ Allison J. Riggs___
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CERTIFICATE OF SERVICE

I certify that on November 23, 2016, the foregoing document was served on all parties or their counsel of record through the CM/ECF system.

/s/ Allison J. Riggs_____
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